

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

v.

Case No. 16-13040

ELITE HEALTH CENTERS, INC.,
ELITE CHIROPRACTIC, P.C.,
ELITE REHABILITATION, INC.,
MIDWEST MEDICAL
ASSOCIATES, INC., PURE
REHABILITATION, INC., DEREK
L. BITTNER, D.C., P.C., MARK A.
RADOM, DEREK LAWRENCE
BITTNER, D.C., RYAN MATTHEW
LUKOWSKI, D.C., MICHAEL P.
DRAPLIN, D.C., NOEL H. UPFALL,
D.O., MARK J. JUSKA, M.D.,
SUPERIOR DIAGNOSTICS, INC.,
CHINTAN DESAI, M.D., MICHAEL
J. PALEY, M.D., DEARBORN
CENTER FOR PHYSICAL
THERAPY, L.L.C., MICHIGAN
CENTER FOR PHYSICAL
THERAPY, INC., and JAYSON
ROSETT,

HON. AVERN COHN

Defendants.

**MEMORANDUM AND ORDER DENYING MARK RADOM'S OBJECTIONS TO THE
MAGISTRATE JUDGE'S ORDER GRANTING STATE FARM'S MOTION FOR ORDER
PERMITTING DISCLOSURE OF STATEMENTS MADE BY AMY ROSENBERG TO
MARK RADOM (Doc. 527)¹**

I. Introduction

¹Upon review of the parties' papers, the Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78(b); E.D. Mich. LR 7.1(f)(2).

This is an insurance fraud case. Before the Court is Mark Radom's Objections to the Magistrate Judge's Opinion and Order Granting State Farm's Motion for Order Permitting Disclosure of Statements Made by Mark Radom to Amy Rosenberg (Doc. 503). The issue is whether the magistrate judge's decision permitting the disclosure of statements made by Mark Radom to Amy Rosenberg is clearly erroneous or contrary to the law? The answer is no. Accordingly, the objections will be denied.

II. Background

Amy Rosenberg (Rosenberg) is the ex-wife of defendant Mark Radom (Radom). On August 29, 2018, Ms. Rosenberg signed a sworn affidavit (Affidavit), recounting information about the alleged fraud scheme at issue in this case, including describing statements Radom made to Rosenberg about the scheme alleged by State Farm while they were married. In October of 2018, Rosenberg gave the Affidavit to State Farm.

Later in October, State Farm filed a Motion for Order Permitting Disclosure of Statements Made by Mark Radom to Amy Rosenberg, explaining statements in the Affidavit are not privileged because they: (1) were not elicited through examination in a court proceeding; and (2) are not confidential, primarily because they involve financial or business transactions and third parties. See Docs. 345, 346.

The magistrate judge granted the motion, finding that "MCL 600.2162(4), is not applicable to the Affidavit at issue here because Rosenberg was not 'examined' about communications with Radom during her marriage in that Affidavit." (Doc. 503 at 20).

III. Legal Standard

The decision and order of a non-dispositive motion by a magistrate judge will be upheld unless it is clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Massey v. City of Ferndale, 7 F.3d 506, 509 (6th Cir. 1993). A

district judge shall consider such objections and may modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a). "The 'clearly erroneous' standard applies only to the magistrate judge's factual findings; legal conclusions are reviewed under the plenary 'contrary to law' standard.... " Haworth, Inc. v. Herman Miller, Inc., 162 F.R.D. 289, 291 (W.D. Mich. 1995) (citing Gandee v. Glaser, 785 F. Supp. 684, 686 (S.D. Ohio 1992)). Clear error has occurred when the reviewing court "is left with the definite and firm conviction that a mistake has been committed." United States v. Caseer, 399 F.3d 828, 840 (6th Cir. 2005) (citations omitted). "An order is contrary to law when it fails to apply or misapplies relevant statutes, case law, or rules of procedure." Ford Motor Co. v. United States, 2009 WL 2922875, at *1 (E.D. Mich. Sept. 9, 2009).

IV. Discussion

The Court has reviewed the magistrate judge's order and papers relating to Radom's objections. Nothing in the magistrate judge's ruling is clearly erroneous or contrary to law. Rather, the magistrate judge applied the correct law to the facts to conclude that the marital privilege does not apply. No further explanation is necessary.

Accordingly, the magistrate judge's order granting State Farm's motion permitting disclosure of statements made by Amy Rosenberg is AFFIRMED. Radom's objections are DENIED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: 8/26/2019
Detroit, Michigan